

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

4 In re) Jointly Administered
5 Coram Healthcare Corp.) Case Nos. 00-3299 (MFW)
6 and Coram, Inc.,) and 00-3300 (MFW)
7 Debtors.) Chapter 11

9 The deposition of L. PETER SMITH, called
10 for examination, taken pursuant to the Federal
11 Rules of Civil Procedure of the United States
12 Bankruptcy Courts pertaining to the taking of
13 depositions, taken before JULIANA F. ZAJICEK, CSR
14 No. 84-2604, a Notary Public within and for the
15 County of Kane, State of Illinois, and a Certified
16 Shorthand Reporter of said state, at Suite 4000,
17 10 South Wacker Drive, Chicago, Illinois, on the
18 24th day of September, A.D. 2001, at 2:08 p.m.

COPY

02:57 PM 1 A. I don't know if I know anybody named DC
02:57 PM 2 other than Dan Crowley.

02:57 PM 3 Q. Okay. Did you tell the Goldin
02:57 PM 4 representatives who interviewed you in words or
02:57 PM 5 substance what was reported here in this fourth
02:57 PM 6 paragraph that I just read to you?

02:57 PM 7 MR. CUNNINGHAM: Objection. The question is
02:57 PM 8 compound.

9 BY MR. LEVY:

02:57 PM 10 Q. Okay. Did you tell Goldin or his
02:57 PM 11 representatives that, "They did not know that DC
02:57 PM 12 was a consultant and employee of Cerberus"?

02:58 PM 13 A. I believe I did say they, yes.

02:58 PM 14 Q. And they would refer to the members of
02:58 PM 15 the board of directors, correct?

02:58 PM 16 A. Um-hum, yes.

02:58 PM 17 Q. Did you tell Goldin that you learned of
02:58 PM 18 the Cerberus contract during the bankruptcy?

02:58 PM 19 A. Yes.

02:58 PM 20 Q. Did you tell Goldin or his
02:58 PM 21 representatives that you still hadn't seen it as
02:58 PM 22 of the day of this interview?

02:58 PM 23 A. Yes.

02:58 PM 24 Q. And did you tell them that if you had

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04:28 PM 1 successful person who had options in his life to
04:28 PM 2 earn certain levels of income, and I think he was
04:28 PM 3 attempting to earn what he thought he could earn.

4 BY MR. LEVY:

04:28 PM 5 Q. Did any of your fellow directors on the
04:28 PM 6 independent committee ever tell you that they
04:29 PM 7 thought Mr. Crowley was greedy?

04:29 PM 8 A. Not that I can recall.

04:29 PM 9 Q. Did you ever have a face-to-face --
04:29 PM 10 ever after December 21st or perhaps after you read
04:29 PM 11 the judge's opinion just a face-to-face
04:29 PM 12 conversation with Crowley which you expressed some
04:29 PM 13 concern that he hadn't told you about the
04:29 PM 14 magnitude of his financial benefits from Cerberus?

04:29 PM 15 A. I had a conversation with him, not
04:29 PM 16 face-to-face, but on the telephone, in which I
04:29 PM 17 told him I was disappointed. I felt that he
04:30 PM 18 should have made that clear to us at the beginning
04:30 PM 19 and that it was unfortunate that it had not been
04:30 PM 20 made clear certainly.

04:30 PM 21 Q. Why were you disappointed?

04:30 PM 22 A. Well, I think, as I said at the
04:30 PM 23 beginning of all of our questions here, he should
04:30 PM 24 have made that point clear.

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04:33 PM 1 was continuing to receive payments from Cerberus?

04:33 PM 2 A. No.

04:34 PM 3 Q. Do you know today whether he is

04:34 PM 4 continuing to receive payments from Cerberus?

04:34 PM 5 A. No.

04:34 PM 6 Q. Does it interest you?

04:34 PM 7 A. Not really.

04:34 PM 8 Q. Why?

04:34 PM 9 A. Well, because I believe that what's

04:34 PM 10 important for the company is that Mr. Crowley

04:34 PM 11 performs his duties as the CEO of a company in the

04:34 PM 12 way in which we want him to perform his duties,

04:34 PM 13 and having been through all of this and seeing the

04:34 PM 14 results, I believe that that's exactly what he is

04:34 PM 15 doing.

04:34 PM 16 Q. Did it concern you that Mr. Crowley was

04:34 PM 17 violating the express terms of Coram's conflict

04:34 PM 18 policy?

04:34 PM 19 MR. CUNNINGHAM: Objection.

04:34 PM 20 MR. HARWOOD: Object to the form.

04:34 PM 21 BY THE WITNESS:

04:34 PM 22 A. That's an issue which I think is a fair

04:34 PM 23 question and obviously should be considered, but I

04:34 PM 24 am not at this moment in the position to say that

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06:41 PM 1 A. It must have been spring of 2001.

06:41 PM 2 Q. Did you ever attempt to contact him

06:41 PM 3 after you learned about his payments of \$80,000 a

06:41 PM 4 month to Mr. Crowley?

06:41 PM 5 A. No.

06:41 PM 6 MR. CUNNINGHAM: Objection.

06:41 PM 7 BY MR. LEVY:

06:41 PM 8 Q. Did you ever suggest to Crowley he

06:41 PM 9 ought to stop taking \$80,000 a month from Cerberus

06:41 PM 10 as long as he continued as CEO?

06:41 PM 11 A. No.

06:41 PM 12 Q. Did anybody, to your knowledge?

06:41 PM 13 A. I don't know.

06:42 PM 14 Q. Did you ever ask Mr. Crowley what he

06:42 PM 15 does for Cerberus for that \$80,000 a month?

06:42 PM 16 A. I never asked him. He did explain to

06:42 PM 17 the board that he evaluates companies and

06:42 PM 18 investments and so on, but it was not a detailed

06:42 PM 19 explanation, no.

06:42 PM 20 Q. When did he make that explanation to

06:42 PM 21 you?

06:42 PM 22 A. Sometime in the early part of the

06:42 PM 23 new -- of the year 2001 once this all came to

06:42 PM 24 light.

06:42 PM 1 Q. When he made that explanation in the
06:42 PM 2 early 2001, were you aware that the payments were
06:42 PM 3 continuing?
06:42 PM 4 A. No.
06:42 PM 5 Q. When did you become aware that the
06:42 PM 6 payments were continuing?
06:42 PM 7 A. During the discussion of the Goldin
06:42 PM 8 report, I believe, somehow.
06:42 PM 9 Q. Early July?
06:42 PM 10 A. Yep.
06:42 PM 11 Q. And who raised that during the
06:42 PM 12 discussion?
06:42 PM 13 A. I don't remember.
06:42 PM 14 Q. Were you surprised?
06:43 PM 15 A. Not completely.
06:43 PM 16 Q. Slightly?
06:43 PM 17 A. No. At that point I had focused my
06:43 PM 18 attention on whether, you know, the steps we had
06:43 PM 19 taken, as I've mentioned before, were the correct
06:43 PM 20 ones anyway, and at that point actually I just
06:43 PM 21 didn't consider it a major material fact in what
06:43 PM 22 we were dealing with.
06:43 PM 23 Q. But Goldin or somebody from Goldin's
06:43 PM 24 side raised it during the July meeting?

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1
2 UNITED STATES BANKRUPTCY COURT
3 DISTRICT OF DELAWARE

4
5 In Re)
6 Coram Healthcare Corp.)
7 and Coram, Inc.,)
8 Debtors,)
9)
10 _____)

) Chapter 11 Case Nos.
00-3299 (MFW) through
00-3300 (MFW)

COPY

11
12
13 Deposition of
14 WILLIAM CASEY
15 Friday, September 28, 2001

16
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18
19
20
21
22
23 Reported by:
24 CARRIE STOTTELMAYER, RPR, CM, CRR
CSR No. 4373
25 Job No. 79613

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1 written contract between Cerberus and Feinberg, he was
2 entitled to certain other potential profits, that is to
3 say other than Winterland?

4 MR. HARWOOD: Object to the form.

5 THE WITNESS: As I said, I haven't read the
6 contract.

7 BY MR. LEVY:

8 Q And you haven't asked about the terms of the
9 contract, correct?

10 MR. HARWOOD: Objection.

11 THE WITNESS: Well, the terms of the contract
12 is that he's paid 80,000 dollars a month.

13 BY MR. LEVY:

14 Q How do you know that?

15 A What you've said, that's what he's said, that's
16 what everyone has said.

17 Q But other than what he said and I said and
18 everyone said -- strike that.

19 A I haven't read the contract, I admit it.

20 Q Are you aware of whether the contract remains
21 in force today?

22 A No, I don't know.

23 Q Do you know whether Mr. Crowley continues to
24 receive 80,000 dollars a month from Cerberus today?

25 A Do I think? I just answered the question. I

1 don't know if the contract's still in effect.

2 Q Answer the question the way I put it. Do you
3 know whether he's still getting 80,000 dollars a month?

4 A I don't know that.

5 Q Did you ever ask?

6 A No.

7 Q Let's go back to your interview with Mr. Goldin
8 on May 15th. I have a set of handwritten notes -- well,
9 strike that, just strike that.

10 And tell me whether you recall saying to
11 Mr. Goldin in substance "EC equals a ploy and outside
12 force rather than real, in essence, ambulance chasers."
13 Did you say that in words or substance?

14 A I don't have any idea what you're talking
15 about.

16 MS. HAKALA: I'm sorry. Can you just repeat
17 that?

18 MR. LEVY: You couldn't hear me?

19 MS. HAKALA: I couldn't hear you.

20 MR. HARWOOD: May the court reporter read it
21 back?

22 MR. LEVY: I'll ask it again. Let's just do it
23 simpler.

24 BY MR. LEVY:

25 Q Do you recall the interview on May 15th with

UNITED STATES BANKRUPTCY COURT
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)
Coram Healthcare Corp.)
)
and Coram, Inc.,)
) Chapter 11 Case Nos.
Debtors,) 00-3299 (MFW) through
) 00-3300 (MFW)
)
)

CERTIFIED COPY

Deposition of

SANDRA R. SMOLEY

Saturday, September 29, 2001

Reported by:
CARRIE STOTTELEMEYER, RPR, CM, CRR
CSR No. 4373
Job No. 79663



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2 THE WITNESS: No, I didn't consider that.

3 BY MR. LEVY:

4 Q Did you consider the fact that that's why
5 Mr. Feinberg is paying a million dollars a year to your
6 chief executive officer?

7 MR. HARWOOD: Objection.

8 BY MR. LEVY:

9 Q Question is did you consider it?

10 A No, no.

11 Q Okay. Thank you. Do you know whether Crowley
12 is still getting that 80,000 dollars a month?

13 A I do not.

14 Q You never asked?

15 A No. It's outside of Coram. My judgment as a
16 board member is how he's doing with our company, not
17 what he's doing outside of our company in my mind.
18 That's just my value system.

19 Q Peter Smith Exhibit 10 is the Corporate
20 Compliance Handbook.

21 A Coram Compliance Handbook. Okay.

22 Q You've seen this?

23 A I have.

24 Q Do you believe your duties as a director
25 included oversight to make sure that this policy was

UNITED STATES BANKRUPTCY COURT

DISTRICT OF DELAWARE

In Re)
)
Coram Healthcare Corp.)
)
and Coram, Inc.,)
) Chapter 11 Case Nos.
Debtors,) 00-3299 (MFW) through
) 00-3300 (MFW)
)
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CERTIFIED COPY

Deposition of

DANIEL D. CROWLEY

Thursday, October 25, 2001

Reported by:
CARRIE STOTLEMEYER, RPR, CM, CRR
CSR No. 4373
Job No. 80965



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2 Coram, that they were pleased with me, my conduct, and
3 the results spoke for themselves.

4 Q Did you tell them at that time that you
5 intended to continue receiving 80,000 dollars a month
6 from Cerberus, "at that time" being sometime shortly
7 after December 21st, 2000?

8 A Yes.

9 Q You disclosed that?

10 A Yes again.

11 Q And you didn't mention Mr. Smith. Did
12 Mr. Peter Smith, a director, have a response?

13 MR. FELDMAN: - No foundation.

14 THE WITNESS: Am I to answer this?

15 MR. FELDMAN: You can. It's a defective
16 question, but you can answer.

17 THE WITNESS: I don't recall.

18 BY MR. LEVY:

19 Q Did the directors at that meeting take any
20 formal action, form of a resolution confirming their
21 views as you just testified to?

22 A I don't recall that.

23 Q Did the directors, to your knowledge, ever take
24 any action approving your decision to continue to
25 receive 80,000 dollars a month from Cerberus?

1 question, it was broken up.

2
3 (Record read.)

4 THE WITNESS: I don't think so.

5 BY MR. LEVY:

6 Q Mr. Crowley, I'm going to represent to you that
7 none of the minutes, the director minutes provided to us
8 by Coram reflect any action or discussion with respect
9 to your continuing to receive 80,000 dollars a month
10 from Coram. Can you explain that omission?

11 MR. FELDMAN: I don't go off representations.

12 I don't want to have you sworn as a witness.

13 MR. LEVY: No, you don't.

14 MR. FELDMAN: You can show him documents and
15 ask him questions, but you can't testify and then ask
16 him to react.

17 MR. LEVY: Let me be clear. By making a
18 representation, I mean that if the representation is
19 wrong, the question and the answer are stricken.

20 MR. FELDMAN: It doesn't matter to me. It's
21 not a good way -- I'm not going to have a lawyer testify
22 and then him react. He'll answer questions or read
23 documents, but he won't respond to testimony by a
24 lawyer.

25 MR. LEVY: Boris, there are approximately 15 --

1 UNITED STATES BANKRUPTCY COURT

2 DISTRICT OF DELAWARE

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4 In Re)
5 CORAM HEALTHCARE CORPORATION) Chapter 11 Case Nos.
and CORAM, INC.,) 00-3299 (MFW) through
6 Debtors.) 00-3300 (MFW)
7 _____)

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9 COPY
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14 DEPOSITION OF DON AMARAL
15 Palo Alto, California
16 Friday, October 26, 2001
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22
23

24 Reported by:
25 RACHEL FERRIER
CSR No. 6948
Job No. 28956

B195

1 Q You recall potential conflict of interest, or
2 do you recall the transcript saying actual conflict of
3 interest?

4 A I don't remember.

5 Q Did you discuss -- at about that time, did you
6 discuss with Mr. Crowley this conflict of interest?

7 A I don't know the exact period of time, but
8 we -- the board, which is almost all independent
9 directors, discussed it with Mr. Crowley, the potential
10 conflict of interest.

11 Q You say, "potential." What -- let's break it
12 down evening further.

13 What do you understand the conflict of interest
14 to be, whether it was potential or actual?

15 A That Mr. Crowley was an employee of Coram
16 Healthcare as our chairman/CEO, and he also was a
17 consultant to Cerberus or one of their subsidiaries.

18 Q And did you, Mr. Amaral, view that as a
19 conflict of interest?

20 A No.

21 Q When did you become aware of the amount of
22 money that Cerberus was paying Crowley?

23 A About five minutes before my second phase of --
24 this is my third deposition on this -- the second one,
25 which was in Orlando.

1 substantially under water.

2 A Yes.

3 Q Now, having read the portion of the opinion I
4 put in front of you, is that still your testimony?

5 A Yes.

6 Q Will you find for me where she said it was
7 substantially under water?

8 A I think under any of the numbers the company is
9 insolvent today.

10 Q And you interpret that to mean substantially
11 under water?

12 A Yes, sir.

13 MR. HARWOOD: And for the record, the witness was
14 pointing to page 88, lines 10 and 11.

15 BY MR. LEVY:

16 Q Are you aware that a -- did anyone tell you at
17 a subsequent court hearing Judge Walrath said when she
18 denied confirmation she didn't -- she did not deny it on
19 the basis of insolvency, but rather on the basis of lack
20 of good faith?

21 A I don't recall.

22 Q Are you aware that Mr. Crowley continues to
23 receive \$80,000 a month from Cerberus?

24 A I don't know.

25 Q Never asked?

1 A Not recently.

2 Q Ever -- ever since -- I'm sorry.

3 Ever since December 21st?

4 A It was disclosed to us that he was receiving
5 that compensation in -- sometime after December 21st,
6 2000.

7 Q But since then you have never asked him whether
8 he continues to receive it, and you don't know whether
9 he's receiving it today?

10 A I don't know if he's receiving that today.

11 Q Is that something you would want to know as a
12 director?

13 A No.

14 Q Why?

15 A Because I'm very pleased with the job
16 Mr. Crowley is doing as CEO. And when I hired him, I
17 knew he was doing some consulting for Cerberus or one of
18 those -- one of the subsidiaries.

19 Q Did it ever occur to you that though he is
20 doing a good job, he might have done even better -- he
21 might have done an even better job had there not been
22 this relationship?

23 A It occurred to me that he could not have done a
24 better job than what he has done, whether he was getting
25 \$80,000 or a million dollars a month.

1 established.

2 THE WITNESS: I know I -- I don't know the exact
3 15 million that you are referring to. I know under Dan
4 Crowley's leadership the company paid back a lot of
5 debt.

6 BY MR. LEVY:

7 Q Okay. Let's establish the fact. Goldin
8 Exhibit 10 is a letter dated July 31st, 2000 written by
9 Dan Crowley to the three noteholders, Feinberg of
10 Cerberus, Goldman Sachs, and Foothill.

11 Have you ever seen that letter before today?
12 And I do note it shows that a copy was sent to the board
13 of directors.

14 A Do I remember seeing it? Yes.

15 Q And in the last paragraph, Mr. Crowley says,
16 "Earlier this year we voluntarily repaid \$15 1/2 million
17 early on the revolver. 6.3 million in interest" --
18 let's just say -- let me stop there.

19 "Earlier this year we voluntarily repaid
20 \$15 1/2 million early on the revolver." Does that
21 refresh your recollection so that you can now testify
22 that you were aware that during the year 2000 up to
23 July 31st the company voluntarily repaid \$15 1/2 million
24 early?

25 A Yes.

1 Q Do you think that payment was in the interests
2 of the noteholders, the shareholders, or both?

3 A Both.

4 Q How was it in the interests of the
5 shareholders?

6 A Reduced interest expense, increased earnings.

7 Q And the -- at the time this payment was made,
8 the company was having cash difficulties; is that --
9 when these payments were made, the company was having
10 difficulties; is that right?

11 MR. CUNNINGHAM: Objection.

12 THE WITNESS: I don't think so.

13 BY MR. LEVY:

14 Q Well, the company had been considering, at
15 least discussing, filing a Chapter 11 bankruptcy at
16 least since the prior December, December of '99; isn't
17 that correct?

18 A That's correct.

19 Q Okay. So during the period when the company
20 was considering filing a bankruptcy, the company
21 voluntarily repaid \$15 1/2 million; correct?

22 A Yes.

23 Q Did the company or its board of directors
24 consider that if it had conserved that cash, it would
25 have a better -- and not paid, voluntarily paid the

1 noteholders, it would have been in a better negotiating
2 position with the noteholders?

3 A That, again, is in the eyes of the -- you know,
4 of the negotiator. But you need to remember all the
5 facts here.

6 As part of the hiring of our CEO, when I was
7 the interim CEO post Rick Smith, Richard Smith, is I got
8 Haven interest free for I believe four months and maybe
9 six months where no interest was paid whatsoever.

10 So during that period of time, the cash flows
11 of the company were substantially improved. So while
12 the company was considering bankruptcy because of this
13 enormous \$300 million of debt on our shoulders, we still
14 had interest -- I mean, excuse me, cash flow to pay our
15 bills, pay our salaries, increase inventories, do all
16 those business things. We were just under water since
17 the day I came over because of the amount of debt on the
18 company.

19 Q Was this something that was considered and
20 decided by the board of directors?

21 MR. CUNNINGHAM: Objection.

22 MR. HARWOOD: Object to the form. What's the
23 "this"?

24 THE WITNESS: Please clarify the question.

25 BY MR. LEVY:

B201

1 Q The decision to voluntarily pay
2 \$15 1/2 million, voluntarily over the period from the
3 beginning of the year to July 31st, was that a decision
4 of the board, or was that a decision of Dan Crowley?

5 A I don't remember. However, when I was CEO and
6 I had sufficient cash, I just paid the debt down.

7 Q During this period between the beginning of
8 2000 and July 31st, 2000, did you as a director ever
9 discuss the possibility of not making voluntary payments
10 in order to improve your negotiating position with the
11 noteholders?

12 A I don't think there was any way by not paying
13 our debt down that we could have improved our position
14 with our debtholders.

15 Q The question was, did you consider it?

16 A I personally?

17 Q You personally.

18 A I don't remember.

19 Q Do you recall it ever being considered by any
20 directors?

21 A You would have to ask them.

22 Q You don't recall?

23 A I don't recall.

24 Q Let's go back to December of 2000. You
25 described a telephone call where you learned about the

1 A Yes.

2 MR. HARWOOD: Can you tell me where you are reading
3 from.

4 MR. LEVY: 9019.

5 MR. HARWOOD: Thank you.

6 MR. LEVY: At the top.

7 Q Did you tell Goldin that you thought Crowley
8 was greedy?

9 A I don't remember saying that, but I think he
10 is.

11 Q Do you think Crowley is greedy?

12 A Yes.

13 Q Do you recall a discussion -- you touched on
14 this earlier -- with Crowley and perhaps with Feinberg
15 in November of 1999 -- strike that.

16 I'm going to just bring you -- November of 1999
17 is when Crowley became the CEO of Coram and signed a
18 contract. Do you recall that?

19 A Yes.

20 Q Okay. Now, do you recall at about that time a
21 discussion with Crowley and perhaps Feinberg concerning
22 Crowley's request to be compensated by Cerberus or
23 Winterland based on his success at Coram?

24 MR. HARWOOD: Objection; this goes before
25 December 21st and was covered at the last deposition.

B203

1 MR. LEVY: I understand, but there was new
2 information about it in here.

3 THE WITNESS: Yes.

4 MR. HARWOOD: If you are just trying to bring him to
5 the time period, that's fine, but let's not cover that
6 same territory again. Thank you.

7 MR. LEVY: Okay.

8 Q And do you recall telling Goldin that you said
9 at that -- telling Goldin in the spring that you had
10 said the prior November that it would be wrong for
11 Crowley to receive compensation for Cerberus or
12 Winterland for his work at Coram and that the CEO should
13 only receive compensation from the company?

14 A Based upon work that he's doing at the company,
15 yes.

16 Q And do you recall -- and was that because you
17 thought there would be a conflict?

18 A I don't think that -- I want my CEO to be
19 compensated in my companies for the work that he does
20 for my company, not by a third party.

21 Q Because that would be a conflict?

22 A Based upon the performances of the company,
23 yes.

24 Q You said, "based upon the performances of the
25 company." Which company?

1 A Coram.

2 Q So to put it together, you believed -- you
3 believe that if Crowley was paid for -- by someone else
4 based upon the performance of Coram, that would be a
5 conflict?

6 A Dan Crowley should only be paid by Coram for
7 his activities on Coram.

8 MR. CUNNINGHAM: Could we possibly --

9 (Recess taken.)

10 MR. LEVY: I think we are going to mark this -- do
11 we have copies?

12 MS. MINOR: Yeah.

13 MR. LEVY: We are going to mark as Amaral
14 Exhibit 102, pages with Bates Nos. G 9009 through 9037.

15 (Equity Committee Exhibit 102 was marked for
16 identification by the court reporter.)

17 BY MR. LEVY:

18 Q And Mr. Amaral, these were furnished to us by
19 Goldin & Associates. And as you can see from the first
20 page, they appear to be the notes of a meeting with you
21 and all the people you described earlier.

22 A What pages, please?

23 Q Okay. Now, please look at page 9021. In what
24 I suppose you call the second paragraph it says on the
25 left, "JG," which I am interpreting to be Jay Goldin.

1 Q And are you aware that as a result of the
2 change made back then, that he now claims some
3 \$13 1/2 million?

4 A I don't think he claims to think the
5 companies -- based upon the signed contract the company
6 owes him that money.

7 Q Now, did you tell Goldin that you were not even
8 aware of the second negotiation? And I'm looking at the
9 top line on 9026.

10 A The negotiation of Dan Crowley's second -- the
11 renegotiation of Dan Crowley's contract was mentioned at
12 a board meeting by Peter Smith, that he would be getting
13 back to Dan about some issue regarding his contract.
14 And I said, what the fuck is this all about.

15 Q That means you were surprised?

16 A Yes.

17 Q Annoyed?

18 A Surprised.

19 Q Annoyed?

20 A Surprised.

21 Q And not annoyed?

22 A Surprised.

23 MR. HARWOOD: Objection.

24 BY MR. LEVY:

25 Q Why were you surprised?

1 Q Well, who was the compensation committee at
2 that time?

3 A Should have been Feinberg, Fink, and Smith.

4 Q I think Fink was gone.

5 A Then it would have been Smith and Feinberg.

6 Q Isn't it a fact that the deal to change
7 Crowley's compensation to what now you -- to an amount
8 that you now believe to be \$13 1/2 million is made
9 between Crowley and Feinberg?

10 MR. HARWOOD: This is pre-December 21st, 2000?

11 MR. LEVY: Just hold on a minute and I'll make you
12 happy.

13 THE WITNESS: I don't know that.

14 MR. LEVY: Okay. Let me mark as Amaral Exhibit 103
15 a document dated April 12th, 2000 bearing Bates Nos.
16 D&T 4407.

17 And Mr. Harwood, or Michael, I will tell you
18 that this letter was never furnished to us until we
19 received it from Goldin who had -- we received it from
20 Deloitte & Touche, who had received it from Goldin, and
21 that's why I'm going back on this.

22 For some reason Coram saw fit -- or didn't
23 produce this, and they should have.

24 MS. MINOR: And just to clarify, because it is
25 marked "D&T," Coram did produce it in the last two



**Dynamic
Healthcare
Solutions**

Invoice

November 1, 2001

Mr. Stephen Feinberg
General Partner
Cerberus Partners
450 Park Avenue, 28th Floor
New York, NY 10022

Professional Consulting Services for November, 2001

\$80,000.00

Expenses:

• Dan Crowley – Centennial in Atlanta	\$3,344.34
• Dan Crowley – Winterland meeting	\$ 27.35
• Kurt Davis – Centennial in Atlanta	\$3,210.52
• Darlena Blay – Centennial in Atlanta	\$1,690.00

Total Expenses \$8,272.21

TOTAL AMOUNT DUE

\$88,272.21

Please wire funds to Dynamic Healthcare Solutions
Bank of America, Sacramento, ABA/Routing #1210-00-358
Account No. 01485-07867

Dynamic Healthcare Solutions
Federal ID. #94-3279677

REPORTER: LORRIE L MARCHANT, RPR, CRR, CSR NO. 10523

EXHIBIT: 5
Witness: DAVIS
Date: 4/5/07 # of pages: 22

CROWLEYKVN 002204

400 Capitol Mall • Suite 1250 • Sacramento, CA 95814 • 916.449.6056 • 916.449.6059 fax

CXR 01010

Volume III

403

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

2002 JAN 15 PM 3:45
U.S. BANKRUPTCY COURT
CLERK
DISTRICT OF DELAWARE

FILED

IN RE:

CORAM HEALTHCARE CORP. and) Chapter 11
CORAM, INC.,) Case Nos. 00-3299 (MFW)
Debtors.) through 00-3300 (MFW)
) Jointly Administered

United States Bankruptcy Court
Courtroom No. 2A
844 North King Street
Wilmington, Delaware 19801

December 13, 2001
9:00 a.m.

BEFORE: THE HONORABLE MARY F. WALRATH
United States Bankruptcy Judge

Transcript of Proceedings

WILCOX & FETZER, LTD.
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477



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Registered Professional Reporters

B209

ORIGINAL

1271

Dan Crowley - Cross (Levy)

419

1 Q. More than once?

2 A. Yes.

3 Q. Did you cooperate with him?

4 A. Fully.

5 Q. Did you give him open access and total
6 information?

7 A. Whatever I had.

8 Q. I'm sorry?

9 A. Everything I had.

10 Q. But you don't recall ever telling Mr. Golden
11 that you were continuing to receive 80,000 a month from
12 Cerberus, do you?

13 A. I don't remember that I told him, no.

14 Q. And you are aware, aren't you, that the updated
15 Golden report doesn't discuss at all the issue of
16 payments received by you from Cerberus after December of
17 2000, right?

18 A. I'm not conversant with whether it does or
19 doesn't at this point.

20 Q. You read it?

21 A. I read it when it came out.

22 Q. Ernst & Young are the auditors for Coram, right?

23 A. Yes.

24 Q. And you were required to sign a representation



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1 A. I believe that -- what I said was that the Board
2 was informed of it and that the Board had assented to my
3 employment agreement and individually, in front of
4 counsel, the Board gave accolades and spoke highly of my
5 performance and that they did not believe that the
6 conflict had manifested itself in any way that's
7 derogatory to the performance of my duties as CEO for
8 Coram.

9 Q. Let's get some timing on that. You first said
10 the Board approved your employment agreement. That would
11 have been back in November of 1999?

12 A. Approximately.

13 Q. At that time the Board did not know that you
14 were receiving \$80,000 a month from Cerberus, is that
15 correct?

16 A. That is correct.

17 Q. Okay. Now, the next event that I think you were
18 speaking about was January of this year, is that right?

19 A. Right.

20 Q. When was the next time?

21 A. The end of December of 2000. As early as I
22 could get them together in January.

23 Q. Fine. That's the meeting where you claim that
24 you told the directors that you were going to continue to



EC-6

Reid, Cynthia

From: Cook, Michael
Sent: Friday, April 05, 2002 2:38 PM
To: 'Scott Schreiber'
Subject: RE: crowley

No problem. Has there been a leak? I know of none.

Michael L. Cook,
Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY10022
(212) 756-2150
FAX:: (212) 593-5955
E-mail:michael.cook@srz.com

-----Original Message-----

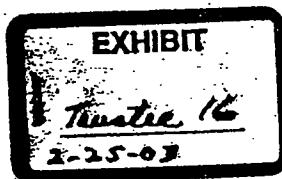
From: Scott Schreiber [mailto:sschreiber@muchlaw.com]
Sent: Friday, April 05, 2002 2:35 PM
To: Cook, Michael
Subject: crowley

mike

I'd appreciate it if you would keep our conversations re; terminating dan's contract between us and our clients for now. no other atty's nor the trustee need to be part of those conversations until dan and Cerberus decide that's the way to go.

thanks

scott



DRAFT

REDACTED

EC-8

EXHIBIT

May 6, 2002

Steve Feinberg

Dear Steve,

I have been thinking about our dinner last week. In retrospect it didn't unfold as you said when you insisted that I had to come to New York. New York.

Well these past 30 months have sure been unusual for me. While I am crystal clear that I have not done anything "wrong", I sure have suffered dearly. I am in a job that I would never ever have accepted at a rate of pay that I earned 8-9 years ago. I am enmeshed in endless Chapter 11 molasses. I am the only person at Coram that has been paid *nothing* on the 2000 MIP or the KERP(s) or the 2001 MIP or anything. No raise. No nothing. Just be a good soldier.

At the same time, I have had my own Company (Dynamic) totally up-ended. I have had my monthly retainer with Cerberus ended ruining my cash flow. ~~I have been told I am due nothing under the Cerberus Agreement.~~ I have had to pay significant legal bills. I have been unable to participate in any new business deals. All this, and my professional reputation has been trashed, too. But as you once said, I'm working with you and Cerberus so it doesn't matter that my reputation has been hurt. Right?

I am also recalling when you said once that I should think about it all as having... "kissed the wrong woman". I owe it to myself to tell you, Steve, that I guess I don't operate the same way.

If I asked you to NYC and told you that I would have a number ~~.....I would have had a "number" and probably would have had a check if the shoe were on the other foot, and it was you coming to New York to see me.~~

I would have been calling often just to see how you were doing. I would not have been badgering you to resign over Christmas/New Years. I would not have been chasing you to get you before you met the Trustee to get your resignation done. If I had done something wrong.....you should have simply fired me. If not, why have I been put at arms length? The reality is that I have done a lot right. Nothing to deserve what has happened to me. Nothing.

If the shoe were on the other foot, your legal bills would have been promptly paid. I would have fought to the end on the front side. I would never have stood back and said see you later, let's see how it turns out. Mr. Bressler has told me that he/Trustee don't want to give us/me advice about ending the contract or my getting paid. He also said, we have smart lawyers and he's sure that they can figure out how to get me paid. He has no objection to my being paid for work done or for terminating the contract.

CONFIDENTIAL

EXHIBIT

CRX 00063

DRAFT

It will be your natural reaction to start to say "Dan's mad". Well, I can honestly tell you that, I am not "mad" at anyone.

I think that Friedman did a terrible job handling this case. He mis-advised me, didn't focus properly, poorly prepared me, and didn't handle most any important aspect of this case correctly. ~~That said, I know that I didn't have to hire Friedman just because you recommended him. I did it on my own. And I didn't have to recite the answers that Friedman gave me to say in Court. And, I didn't have to hire Chanin simply because you felt Houlihan Lokey was too expensive.~~

I suppose if I had been more trusting maybe (maybe) I would not have written the memo about trying to get upside on your position if I did a great job at Coram. I didn't have to take the assignment at Coram. In retrospect, I should have simply told you "no".

If I had been more trusting, maybe (maybe) I would not have asked for a formal contract outlining things like legal bills being paid, upside being shared. I guess I just didn't know you that well when we entered this relationship. History has taught me hard lessons about "amnesia" when it comes to money. To this day, you are still telling me that the 2000 MIP was based upon the gain on the CPS sale even though I have told you it didn't more times than I can count. EBITDA was \$37 Million w/o CPS and \$54 Million with it. I would have earned another \$4.25 Million if I included the gain. I didn't.

~~Really, the way I am looking at this is that it is just one more sobering seminar in my life-long education. And yes, I still like and admire you a lot. Admire what you do and have built. Admire your intellect and your family commitment. I also like me a lot, when it comes to being back to back with someone in good and bad times. I really like me a lot when it comes to counting on someone to do what they say they will do. No question about that. I never f--- a friend. Never.~~

That's it. I'm not keeping a copy of this note. You can toss yours. I just wanted you to know how I am feeling on this particular day.

Dan Crowley

CONFIDENTIAL

REDACTED

CRX 00064

In scrl

Hence, I expect that you'll honor the commitment that you made to me over dinner: after Coram's plan is confirmed or its assets sold, I'll be reinstated with Cerberus and receive \$5,000,000 from Cerberus. Also, Cerberus will indemnify me for all of my legal fees, plus pay me the difference between what I ultimately receive from Coram by way of bonuses, and \$11,200,000. If this is not our deal, please just send this letter back to me.

CRX.00065

B215

TX STATUS REPORT

AS OF AUG 20 2002 14:31 PAGE 61

DYNAMIC HEALTHCARE

EC

14

DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	JOB#	STATUS
15 08/20	14:51	1 212 421 2947	EC-S	00'18"	001	236	'OK

PERSONAL AND CONFIDENTIAL

August 20, 2002

Mr. Steve Feinberg
Cerberus Capital

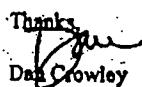
Re: Employment Agreement

Dear Steve,

It is now nearly September 2002 and I would very much like to conclude the mutual termination of the employment agreement between Dynamic Healthcare Solutions and Cerberus.

Without respect to deal activity, I think we reasonably agree that under the Agreement that I am eligible to receive payment for a termination *without cause* thereunder that would include payment for the months that I have gone unpaid in 2002 *plus* for one (1) additional year for severance.

I would sincerely appreciate handling this expeditiously and amicably bringing closure to this open issue.

Thanks,

 Dan Crowley

CRX 00816



B216

